

ERRATA

Morningstar of San Jose Residential Care Facility

File No. CP18-024
Location 1366 De Anza Blvd, San Jose
Council District 1

BACKGROUND

The Draft Initial Study/Mitigated Negative Declaration (IS/MND) for The Morningstar Residential Care Facility Project (Project) was published for public review on January 23, 2019 to February 12, 2019. Since the public review of the IS/MND, there are minor text changes that have been made to the IS/MND. The following errata to the IS/MND is made to correct and clarify the changes.

PURPOSE OF ERRATA

The California Environmental Quality Act (CEQA) Guidelines, Section 15073.5, requires that a lead agency recirculate a negative declaration “when the document must be substantially revised.” A “substantial revision” includes: (1) identification of a new, avoidable significant effect requiring mitigation measures or project revisions, and/or (2) determination that proposed mitigation measures or project revisions will not reduce potential effects to less than significance and new measures and revisions must be required.

State CEQA Guidelines specify situations in which recirculation of a negative declaration is not required. This includes, but is not limited to, situations in which “new information is added to the negative declaration which merely clarifies, amplifies, or makes insignificant modifications to the negative declaration.” As noted below, revisions to the proposed project would not change the extent of the project analyzed in the Initial Study/Mitigated Negative Declaration (IS/MND). Changes to the negative declaration would therefore merely clarify the project being analyzed, and modifications would be insignificant. Recirculation of the negative declaration is therefore not required in accordance with Section 15073.5(c).

TEXT REVISIONS

These changes are made to the Hydrology and Water Quality section on pages 76, 78, and 82; and to the Land Use section on page 83 of the Initial Study as shown below. Deletions are shown as ~~strikethrough~~ text and additions are shown in underlined text.

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~~The Flood Insurance Rate Maps issued by the Federal Emergency Management Agency (FEMA) indicate that the project site is located within Zone D. Zone D is defined as an area of undetermined but possible flood hazard outside the 100-year floodplain.~~

The project site is located in Flood Zone X, which is not a designated Federal Emergency Management Agency (FEMA) 100-year floodplain. Flood zone X is an area of moderate or minimal flood hazard. The City does not have any floodplain restrictions for development in Zone X ~~D~~.

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- b) **Less Than Significant Impact.** Although the data are not conclusive on the groundwater depth at the project site, the geotechnical investigation anticipates that static groundwater is approximately 27 feet below the ground surface or deeper. Groundwater is influenced by seasonal rainfall, groundwater pumping and or drought conditions.

The project proposes one level of below-grade parking requiring excavation to a depth of approximately 12 feet below grade. Therefore, the proposed project would not deplete or otherwise affect groundwater supplies since it would not access groundwater. ~~In addition, the project would not deplete/otherwise affect groundwater recharge, since the project is not located within a groundwater recharge area.~~ The project will increase the amount of impervious surface on the site and will therefore have a less than significant impact on groundwater recharge. The project incorporates stormwater measures such as pervious pavers, flow-through planters and landscaping that will maximize groundwater recharge to the extent feasible for a small site within urban environment.

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- g) **No Impact.** The project is not located within a 100-year floodplain or flood hazard zone as mapped by FEMA (site is within Zone XD).

J. LAND USE

Setting

The project site is located in an urbanized area within the jurisdiction of the City of San José. The project site is designated Neighborhood/Community Commercial in the City's Envision San José 2040 General Plan Land Use/Transportation Diagram. The project site is currently zoned Commercial Neighborhood (CN) Pedestrian (CP). The project proponent is applying for a Conditional Use Permit to allow for the assisted-living residential care facility use as defined in the Zoning Ordinance.

The Neighborhood/Community Commercial designation supports a broad range of commercial activity, including commercial uses that serve communities in neighboring areas such as neighborhood serving retail and services. General office uses, hospitals, and private community gathering facilities are also allowed within this designation.

Surrounding Land Uses

The project site is located in an area that includes a mix of residential and commercial uses. The site fronts onto South De Anza Boulevard to the west. On the western side of De Anza Boulevard across from the project site is the jurisdiction of the City of Cupertino, where a commercial-retail center is located that contains a plant nursery.

Along the northern property line of the project site, the site is bordered by a single-story commercial building used for retail product sales (Bull's Glass and Screen Center, 1362 South De Anza Boulevard), and two single-story commercial buildings that contain a veterinary/pet clinic located north of the commercial-retail building. A parking lot and driveway are located on the remaining portion of the northern boundary of the project site.

The site is bordered by a residential development to the south and east of the site, consisting of townhome-style residences up to three stories in height. The residential buildings along the eastern side (rear) of the property are approximately 15 feet from the shared property line. The residential properties along the southern side property line are set back approximately 20 feet from the shared property line.

General Plan Policies

Policies in the General Plan have been adopted for the purpose of avoiding or mitigating land use impacts from development projects. Policies applicable to the project are presented below.

Envision San José 2040 Relevant Land Use Policies	
Policy VN-1.11	Protect residential neighborhoods from the encroachment of incompatible activities or land uses which may have a negative impact on the residential living environment.
Policy VN1.12	Design new public and private development to build upon the vital character and desirable qualities of existing neighborhoods

Impacts and Mitigation

Thresholds per CEQA Checklist

ENVIRONMENTAL IMPACTS	Potentially Significant Issues	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
9. LAND USE AND PLANNING. Would the project:					
a) Physically divide an established community?				X	1, 2

ENVIRONMENTAL IMPACTS	Potentially Significant Issues	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
b) Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect?			X		1, 3
c) Conflict with any applicable Habitat Conservation Plan or Natural Community Conservation Plan?			X		1

Explanation

- a) No Impact. The project is proposed on a ~~vacant site surrounded on all sides by commercial and residential development.~~ site that contains a commercial-restaurant building built in 1969 that previously was occupied by a Bonanza Sirloin Pit restaurant, and presently is unoccupied. The project includes demolition of the existing development and proposes redevelopment of the site. The site is located in an urban area of San José, surrounded on all sides by commercial and residential development. The proposed commercial use is compatible with these surrounding uses and the layout and design of the project does not include any physical features that would physically divide the community (e.g., blocking of roadways or sidewalks). For these reasons, implementation of the proposed assisted living facility will not physically divide an established community.
- b) Less Than Significant Impact. The proposed residential care/assisted living facility is consistent with the land use designation in the City's 2040 General Plan of Neighborhood Community Commercial. The project is an application for a Conditional Use Permit from the City to construct a fully licensed Residential Care Facility for the Elderly regulated by the State of California, and operated by Morningstar Senior Living.

Consistency with the General Plan:

The proposed project site has an Envision San José 2040 General Plan land use designation of Neighborhood/Community Commercial. This designation supports a very broad range of commercial activity, including commercial uses that serve the communities, such as neighborhood serving retail and services and commercial/professional office development. General office uses, hospitals, and private community gathering facilities are also allowed in this designation. The project is consistent with the Neighborhood/Community Commercial designation, as the Residential Care/Assisted Living and Memory Care facility functions as a commercial use that provides a variety of jobs that offer daily care services for clients. The use is located in an area with a mix of residential and commercial uses. As the project use would provide clients having medical impairments or in need of assistance with daily

activities with permanent or long-term care, the use would be consistent with the surrounding residential and commercial uses. Most of the proposed activities are primarily indoors and all outdoor activities are for passive uses with limited impact. Therefore the project would not adversely affect the surrounding developments. As described in the Noise section of the Initial Study, the project meets all applicable noise standards such that noise generated by the project would not impact the surrounding uses.

Consistency with the Zoning Ordinance:

The proposed Residential Care Facility use (which is the category the proposed assisted living facility fits within according to the Zoning Ordinance definition of "Residential Care Facility,") is considered a Conditional Use in the CP-Commercial Pedestrian Zoning District and is therefore consistent with the Zoning Ordinance. The project is also consistent with the setback standards of the zoning district. The setback requirements of the district are 10 feet maximum in the front, 10 feet minimum on an interior side abutting residential zoning, 25 feet in the rear and no setback required on other interior sides. The proposed project provides 2 feet 4 inches setback in the front, 10 feet along the residential boundary line, 25 feet in the rear and 6 feet along the other interior side setback.

The four-story project is designed to buffer the adjacent three-story residential uses. When the individual setbacks of the existing and proposed projects are taken into account, there would be an approximately 40-foot buffer between the residential development and the proposed project along the rear (east) property line) and a 30-foot buffer along the side (south) property line. Additionally, the U-Shape orientation of the project, which accommodates the proposed ground floor courtyard would further reduce the impact of the proposed project on the surrounding residential properties.

The CP Commercial Pedestrian Zoning District allows 50 feet as the maximum height for buildings and Section 20.100.1300 allows exceptions to be granted for elevator shafts and stairwells to exceed the height limit by up to 17 feet. The proposed building has a maximum height of 50 feet with a stairwell projection of 59 feet, 7 inches and an elevator shaft projection of 55 feet 9 inches and, therefore, the project meets the maximum height requirements. The project is one story higher than the adjacent residential uses, but as described earlier, there is sufficient buffer between the proposed project and the residential development to minimize any negative impact of the additional height.

The In conclusion, the project is located in an urban area that does not contain sensitive habitat or resources. As described above, the project is generally consistent with the General Plan and the provisions in the Zoning Ordinance. Therefore, it can be concluded that, with the implementation of the mitigation measures and standard permit conditions identified in this Initial Study, the proposed assisted living facility would not conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect.

- c) Less Than Significant Impact. Please refer to D. Biological Resources for a discussion of the project's consistency with the Santa Clara Valley Habitat Conservation Plan.

Conclusion: The project would have a less-than-significant impact on land use and planning.

End of Text Revision

These changes are a minor correction and clarification that do not present new information or change the analysis or findings of the IS/MND. The proposed changes identified above would only correct and clarify the attributes of the existing physical setting of the subject site and its surroundings and would not result in any new significant environmental effects or a substantial increase in the severity of previously identified significant effects. The new information is not significant and recirculation is not required. In conformance with Section 15074 of the CEQA Guidelines, the MND, technical appendices and reports, together with the Errata and the information contained in this document are intended to serve as documents that will inform the decision-makers and the public of environmental effects of this project.

Rosalynn Hughey, Director
Planning, Building and Code Enforcement

Date: February 13, 2019



Deputy